

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3
4 Jeffrey Lynn Franklin,

5 Petitioner

6 v.

7 Jerry Howell, et al.,

8 Respondents

Case No.: 2:18-cv-00444-JAD-NJK

Order to Show Cause

[ECF Nos. 2, 4, 9]

9 Pro se plaintiff Jeffrey Lynn Franklin petitions for a writ of habeas corpus¹ and applies to
10 proceed *in forma pauperis*.² This is Franklin's second pauper application (because I denied the
11 first as incomplete). Having reviewed Franklin's financial documents, I find that he is unable to
12 pay the filing fee, and I grant him pauper status.

13 I have also reviewed his petition under Rule 4 of the Rules Governing Section 2254
14 Cases in the United States District Courts, and it appears that this is a successive petition.
15 Franklin challenged his conviction once before in *Franklin v. Nevada*, Case No. 3:10-cv-00020-
16 HDM-VPD. The court denied that petition on its merits,³ and the Ninth Circuit denied Franklin
17 a certificate of appealability.⁴ This petition, which challenges the same conviction, is therefore a
18 second or successive petition under 28 U.S.C. § 2244(b).

19 Franklin must obtain authorization from the Ninth Circuit before this court can consider
20 his petition.⁵ Nothing in the documents that Franklin has filed indicates that he has received that
21 authorization. Franklin will need to show cause why I should not dismiss this action as an
22 unauthorized, successive petition.

23 _____
24 ¹ ECF No. 1-1.

25 ² ECF No. 9.

26 ³ See case no. 3:10-cv-00020-HDM-VPD at ECF No. 25.

27 ⁴ *Id.* at ECF No. 30.

28 ⁵ 28 U.S.C. § 2244(b)(3).


1 Accordingly, IT IS HEREBY ORDERED that Franklin's application to proceed *in forma*
2 *pauperis* [ECF No. 9] is **GRANTED**. Franklin need not pay the \$5.00 filing fee.

3 The **Clerk of Court** is directed to **DETACH and FILE** the petition for a writ of habeas
4 corpus [ECF No. 1-1].

5 IT IS FURTHER ORDERED that Franklin **has until July 23, 2018, to show cause why**
6 **this action should not be dismissed as an unauthorized second or successive petition.** If
7 Franklin does not comply with this court-ordered deadline, this action will be **DISMISSED**
8 without further prior notice.

9 IT IS FURTHER ORDERED that Franklin's motions for appointment of counsel [ECF
10 **Nos. 2, 4]** are **DENIED** without prejudice to his ability to refile them if he can show cause why
11 this petition shouldn't be dismissed.

12 Dated: June 22, 2018

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14 U.S. District Judge Jennifer A. Dorsey
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